

UNITED STATES DISTRICT COURT

for the
District of Arizona

United States of America)

v.)

Sylvester Hernandez,)

a.k.a.: Sylvester Hernandez-Cerillo,)

a.k.a.: Silvestre Juarez Vasquez,)

(A095 730 160))

Defendant

Case No. 17-585 MJ

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date of November 15, 2017, in the County of Maricopa, in the District of Arizona, the defendant violated Title 8, U.S.C. § 1326(a), an offense described as follows:

Sylvester Hernandez, an alien, was found in the United States of America at or near Phoenix, in the District of Arizona, after having been previously denied admission, excluded, deported, and removed from the United States at or near San Ysidro, California, on or about February 13, 2009, and not having obtained the express consent of the Secretary of the Department of Homeland Security to reapply for admission thereto; in violation of Title 8, United States Code, Section 1326(a), and enhanced by (b)(1). I further state that I am a Deportation Officer.

This criminal complaint is based on these facts:

See Attached Statement of Probable Cause Incorporated By Reference Herein

REVIEWED BY: Charles E. Bailey, P.S. for AUSA Brandon Brown

☒ Continued on the attached sheet.

Sworn to before me and signed in my presence.

Date: November 20, 2017

City and state: Phoenix, Arizona



Complainant's signature

Darrin J. McNeill,
Deportation Officer

Printed name and title



Judge's signature

Michelle H. Burns,
United States Magistrate Judge

Printed name and title

STATEMENT OF PROBABLE CAUSE

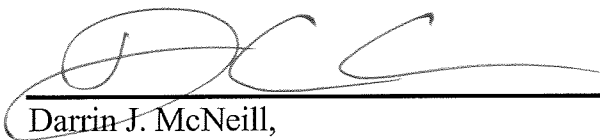
I, Darrin J. McNeill, being duly sworn, hereby depose and state as follows:

1. Your affiant is a Deportation Officer with United States Immigration and Customs Enforcement (ICE). I have learned from direct participation in the investigation and from the reports and communications of other agents and officers the facts recited herein.
2. On November 15, 2017, Sylvester Hernandez was arrested by the Phoenix Police Department and booked into the Maricopa County Jail (MCJ) on local charges. While incarcerated at the MCJ, Hernandez was examined by ICE Officers and stated that he was born in Arizona. ICE Officer B. Hall encountered Hernandez as a lead generated from the Law Enforcement Support Center who determined Hernandez to be a citizen of Mexico, illegally present in the United States. On the same date, an immigration detainer was lodged with the county jail. On November 16, 2017, Hernandez was released from the MCJ and transported to the Phoenix ICE office for further investigation and processing. Hernandez was held in administrative custody until his criminal and immigration records could be obtained and his identity confirmed.
3. Immigration history checks revealed Sylvester Hernandez to be a citizen of Mexico and a previously deported criminal alien. Hernandez was removed from the United

States to Mexico at or near San Ysidro, California, on or about February 13, 2009, pursuant to the reinstatement of an order of removal issued by an immigration judge. There is no record of Hernandez in any Department of Homeland Security database to suggest that he obtained permission from the Secretary of the Department of Homeland Security to return to the United States after his removal. Hernandez's immigration history was matched to him by electronic fingerprint comparison.

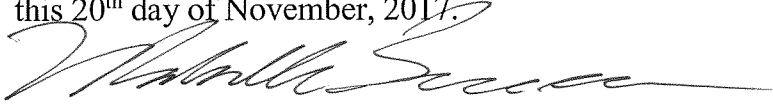
4. Criminal history checks revealed that Sylvester Hernandez was convicted of Burglary, a felony offense, on or about October 4, 2008, in the Superior Court of California, County of San Fernando. Hernandez was sentenced to three hundred sixty-five (365) days' incarceration and three (3) years' probation. Hernandez's criminal history was matched to him by electronic fingerprint comparison.
5. On November 16, 2017, Sylvester Hernandez was advised of his constitutional rights. Hernandez freely and willingly acknowledged his rights and declined to make any further statements.
6. For these reasons, this affiant submits that there is probable cause to believe that on or about November 15, 2017, Sylvester Hernandez, an alien, was found in the United States of America, at or near Phoenix, in the District of Arizona, after having been previously denied admission, excluded, deported, and removed from the United States

at or near San Ysidro, California, on or about February 13, 2009, and not having obtained the express consent of the Secretary of the Department of Homeland Security to reapply for admission thereto; in violation of Title 8, United States Code, Section 1326(a), and enhanced by (b)(1).

A handwritten signature in black ink, appearing to read 'DCC', is written over a horizontal line.

Darrin J. McNeill,
Deportation Officer,
Immigration and Customs Enforcement

Sworn to and subscribed before me
this 20th day of November, 2017.

A handwritten signature in black ink, appearing to read 'Michelle Burns', is written over a horizontal line.

Michelle H. Burns,
United States Magistrate Judge